

Indonesia

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1 Arbitration Agreements

1.1 What, if any, are the legal requirements of an arbitration agreement under the laws of your country?

An agreement to arbitrate must be clear and unequivocal and in writing, signed by both or all parties to be bound. The agreement may be made before or after the dispute arises.

If the agreement to arbitrate is made after the dispute has arisen, it must comply with the requirements of Article 9 of Law No. 30 of 1999 (the “Arbitration Law”) which provides, in part:

“(3) The written agreement contemplated in paragraph (1) must contain:

- a. The subject matter of the dispute;*
- b. The full names and addresses of residence of the parties;*
- c. The full name and place of residence of the arbitrator or arbitrators;*
- d. The place the arbitrator or arbitration panel will make their decision;*
- e. The full name of the secretary;*
- f. The period in which the dispute shall be resolved;*
- g. A statement of willingness by the arbitrator(s); and*
- h. A statement of willingness of the disputing parties that they will bear all costs necessary for the resolution of the dispute through arbitration.*

(4) A written agreement not containing the matters specified in paragraph (3) will be null and void.”

Note that incorporation by reference of an arbitration clause in another instrument will not be effective as agreement by a party to arbitrate unless one can establish that such party actually read and agreed to the arbitration clause.

1.2 What other elements ought to be incorporated in an arbitration agreement?

Aside from the usual: seat, rules, number of arbitrators, how they are to be selected and designation of Appointing Authority, unless another language is designated the language will be Indonesian, so specification of the language of the arbitration is essential. Note that there is a time limitation of 180 days from constitution of the full tribunal in which hearings must be completed, unless such time limitation is waived AND replaced by a different limitation. A waiver that does not designate a different

time limitation will not be effective and the 180 day limitation will prevail.

Among the other optional matters that one might wish to include would be: (i) the degree of confidentiality required, as the law only stipulates that the hearings will be closed to the public and (ii) whether the Tribunal may award a party’s legal and other costs to be paid by the other, as this is not generally available under Indonesian law and practice.

1.3 What has been the approach of the national courts to the enforcement of arbitration agreements?

Articles 3 and 11 of Law No. 30 of 1999 make it clear that no court has, nor may take, jurisdiction to adjudicate a dispute where the parties thereto have properly agreed to arbitration of such dispute. As a general rule the courts have honoured this principle. However there have been a few instances in which a plaintiff has mis-characterised a contractual dispute as a tort case and thereby persuaded the courts to take jurisdiction and hear the case. Normally these cases are reversed on appeal, but this may take some time due to the tremendous case-load of the appeals and Supreme courts.

2 Governing Legislation

2.1 What legislation governs the enforcement of arbitration agreements in your country?

Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution, coupled with the general freedom of contract provisions in the Indonesian Civil Code, Articles 1320–1338 thereof.

2.2 Does the same arbitration law govern both domestic and international arbitration proceedings? If not, how do the laws differ?

Under Indonesian law, both Law No. 30 of 1999 and the previous legislation (such as Supreme Court Regulation No. 1 of 1990) all arbitrations with venue in Indonesia are considered “domestic” arbitrations and only those held outside of this archipelago are characterised as “international” arbitrations, regardless of the nationality of the parties, location of the project of the dispute, governing law, etc. Thus, while we have only a single arbitration law applying to any arbitration, in practice the procedural provisions, other than for enforcement,

would cover only domestic arbitrations, as it covers only, and all, arbitrations held within Indonesia.

With regard to enforcement in Indonesia, the law has separate provisions for enforcement of domestic as opposed to foreign-rendered, or international, awards. These differences include only the court to which application for enforcement is to be submitted, time limit for registration of an award (none in the case of an international award) and the requirement, in the case of an application for enforcement of an international award, that the application be accompanied by, among other things:

“a certification from the diplomatic representative of the Republic of Indonesia in the country in which the International Arbitration Award was rendered stating that such country and the Republic of Indonesia are both bound by a bilateral or multilateral treaty on the recognition and implementation of International Arbitration Awards” (Article 68 (2) (c)).

2.3 Is the law governing international arbitration based on the UNCITRAL Model Law? Are there significant differences between the governing law and the Model Law?

Law No. 30 of 1999 is not based upon the UNCITRAL Model Law. One early draft was based upon the Model Law but the Law, as eventually promulgated, is the result of many drafts and revisions by a number of sources, and includes incorporation of a number of principles from the previous legislation (1849 Dutch Code of Civil Procedure, the “RV”). There is considerable similarity in principle, but the text of Law No. 30/1999 bears little resemblance to the Model Law.

Differences are too numerous for all to be mentioned within the scope of this paper. Perhaps the primary one is that Law No. 30/1999 applies to all arbitrations held within the territory of the archipelago of Indonesia and there is no distinction between “domestic” and “international” with regard to the nationality of the parties or the location of their project or dispute. The only effective differences between a domestic arbitration, one held in Indonesia, and an “international” one, held outside of Indonesia, is the procedure and venue for enforcement of the award.

Some of the other differences include:

- Incorporation by reference is not recognised in Indonesia unless it can be shown that the party contesting actually read and agreed to the arbitration clause in the document sought to be incorporated.
- Law No. 30/99 does not specifically require a court to refer to arbitration a dispute brought before it where there is an agreement to arbitrate. It only states that the courts do not have jurisdiction to hear such case.
- Nor does the Law specify that the arbitrators are competent to rule on their own jurisdiction (*competenz-competenz*), although this should be implicit.
- Language: unless the parties otherwise agree, the language will be Indonesian, regardless of the language of the underlying documents.
- Hearings: Law No. 30/99 states that the case is decided on documents unless the parties or the arbitrators wish to have hearings, whereas the Model Law requires hearings unless the parties agree otherwise.
- Awards in Indonesia MUST be reasoned.
- The parties may request only typographical errors and

similar to be corrected, and have only 14 days to so request.

- Grounds for annulment of Indonesian awards are far more limited than those set out in the Model Law, and include primarily fraud, forgery or concealed material documents.

3 Jurisdiction

3.1 Are there any subject matters that may not be referred to arbitration under the governing law of your country? What is the general approach used in determining whether or not a dispute is “arbitrable”?

Article 5 of Law No. 30/99 states:

“Only disputes of a commercial nature, or those concerning rights which, under the law and regulations, fall within the full legal authority of the disputing parties, may be settled through arbitration”

Thus any matter which would require some state intervention cannot be arbitrated. These would include declaration of bankruptcy, divorce, adoption, criminal matters and similar.

3.2 Is an arbitrator permitted to rule on the question of his or her own jurisdiction?

The principle of *competenz-competenz* is not clearly covered in Law No. 30, nor in any other legislation. As a practical matter arbitrators normally will take this jurisdiction. However a jurisdictional objection may, and sometimes is, brought before the courts as well.

Parties may avoid such a problem by including this in the arbitration clause, specifying the broadest scope of the matters subject to the clause and/or specifically mentioning this therein.

3.3 Under what circumstances can a court address the issue of the jurisdiction and competence of the arbitral tribunal?

The court will address any application made to it. Often the issue will arise when a party brings an action in the court on a dispute which should be subject only to arbitration, and the other party must invoke Articles 3 and 11 of the Arbitration Law in contesting the court’s competence to hear any case under the subject agreement. Occasionally a party may apply to a court to stay an arbitration. In a recent such case the court refused to hear such an application where the other party contested its jurisdiction on the basis of an agreement to arbitrate and an arbitration already commenced.

In the absence of designation of an appointing authority by the parties to an agreement to arbitrate the court may address questions of appointment and/or recusal of arbitrators.

4 Selection of Arbitral Tribunal

4.1 Are there any limits to the parties’ autonomy to select arbitrators?

Only to the extent of the required qualifications for all arbitrators, as set out in Article 12 of Law No. 30/99, which provides:

“(1) The parties who may be appointed or designated as arbitrators must meet the following requirements:

- a. Being authorised or competent to perform legal actions;
- b. Being at least 35 years of age;
- c. Having no family relationship by blood or marriage, to the third degree, with either of the disputing parties;
- d. Having no financial or other interest in the arbitration award; and
- e. Having at least 15 years experience and active mastery in the field.

(2) Judges, prosecutors, clerks of courts, and other government or court officials may not be appointed or designated as arbitrators."

4.2 If the parties' chosen method for selecting arbitrators fails, is there a default procedure?

Article 13 of Law 30/99 provides;

"(1) In the event the parties cannot reach agreement on the choice of arbitrators, or no terms have been set concerning the appointment of arbitrators, the Chief Judge of the District Court shall be authorised to appoint the arbitrator or arbitration tribunal.

"(2) In an ad hoc arbitration, where there is any disagreement between the parties with regard to the appointment of one or more arbitrators, the parties may request the Chief Judge of the District Court to appoint one or more arbitrators for resolution of such dispute."

Note that if the parties have designated an arbitral institution to administer the arbitration or have otherwise designated specific rules of procedure, and such rules or institution call for another method of selection or default selection, the provisions of the rules or institution shall prevail.

4.3 Can a court intervene in the selection of arbitrators? If so, how?

See 4.2, above.

4.4 What are the requirements (if any) as to arbitrator independence, neutrality and/or impartiality?

Article 18 (1) of Law No. 30/99 states:

"A prospective arbitrator asked by one of the parties to sit on the arbitration panel shall be obliged to advise the parties of any matter which could influence his independence or give rise to bias in the rendering of the award"

Article 22 also provides a right of recusal in case of lack of independence or impartiality, stating:

"A demand for recusal may be submitted against an arbitrator if there is found sufficient cause and authentic evidence to give rise to doubt that such arbitrator will not perform his/her duties independently or will be biased in rendering an award.

"Request for recusal of an arbitrator may also be made if it is proven that there is any familial, financial or employment relationship with one of the parties or its respective legal representatives."

5 Procedural Rules

5.1 Are there laws or rules governing the procedure of arbitration in your country? If so do those laws or rules apply to all arbitral proceeding sited in your country?

Article 31 of Law No. 30/1999 makes it clear that the parties are free to designate any rules, and Article 34 allows designation of any arbitral institution, they may mutually agree upon to govern the procedure, provided

the rules so chosen do not conflict with mandatory provisions of such Law. If no rules are designated by the parties, the Law itself contains procedural rules that must be followed. Such procedural rules are primarily contained in Articles 35 through 51 of Law No. 30/1999.

All arbitrations held within Indonesia are considered domestic Indonesian arbitrations and are subject to Law No. 30 of 1999.

5.2 In arbitration proceedings conducted in your country, are there any particular procedural steps that are required by law?

See response to 5.1, above.

5.3 Are there any rules that govern the conduct of an arbitration hearing?

See response to 5.1, above.

5.4 Do the national courts have jurisdiction to deal with procedural issues arising during an arbitration?

Aside from appointment or recusal of arbitrators (See § 4.2, above), the courts have no jurisdiction to deal with any matters subject to arbitration, other than enforcement or other relief that may be sought after issuance of the final award. An exception might be to enforce interim measures of relief granted by a tribunal, but this has not yet been tested.

6 Preliminary Relief and Interim Measures

6.1 Under the governing law, is an arbitrator permitted to award preliminary or interim relief? If so, what types of relief? Must an arbitrator seek the assistance of a court to do so?

Article 32 (1) of Law 30/1999 provides:

"At the request of one of the parties, the arbitrator or arbitration tribunal may make a provisional award or other interlocutory decision to regulate the manner of running the examination of the dispute, including decreeing a security attachment, ordering the deposit of goods with third parties, or the sale of perishable goods."

No such power could be exercised by arbitrators previously. Court intervention would only be sought in the event that a party were to fail to comply with such an order and the other party might make an application to a court to have the order enforced. But since, as a general rule, only final and binding awards and court judgements will be enforced by the courts, and since there are no sanctions provided in the Law for failure to comply with these interlocutory arbitral awards, these may prove difficult to implement in practice. But it has not as yet been tested.

The language of Article 32 would seem to restrict such interlocutory awards to matters that fall within the language of Article 32, quoted above, and not to binding interim awards on the merits, such as the rendering of an initial award as to liability prior to examination of quantum.

6.2 Is a court entitled to grant preliminary or interim relief in proceedings subject to arbitration? In what circumstances? Can a party's request to a court for relief have any effect on the jurisdiction of the arbitration tribunal?

As mentioned above, Articles 3 and 11 of Law 30/99 make it clear that no court has jurisdiction over any dispute where the parties thereto have agreed to arbitrate. This should extend to preliminary and interim relief, and should be covered by Article 32 (1) so no application need be made to a court.

There have been a few recent cases in which a party has sought relief from a court in cases where they are bound by arbitration clauses, but in every such case they seek to characterise their dispute as one of tort and not contract. Some courts have been persuaded by such arguments and others have not. No such instance has as yet been finally determined by the Supreme Court so it is too early to make a definitive determination on this question.

6.3 In practice, what is the approach of the national courts to requests for interim relief by parties to arbitration agreements?

See response to 6.2, above. But generally it is necessary to commence an action in the court in order to seek interim or preliminary relief. Under the Arbitration Law, courts may not take jurisdiction when there exists an agreement to arbitrate, and thus such relief should not be available where the dispute is to be resolved by arbitration.

7 Evidentiary Matters

7.1 What rules of evidence (if any) apply to arbitral proceedings in your country?

As mentioned earlier, Indonesia is a civil law jurisdiction, and thus the rules of evidence and discovery procedures are far less developed than those in common law jurisdictions.

Article 46 (a) of Law 30/99 provides only that the parties are afforded an opportunity to explain their respective positions in writing and to submit evidence deemed necessary to support such positions. Articles 49 and 50 set out procedures for summoning and utilisation of witnesses, both expert and factual. Otherwise, Article 37 (3) provides that examination of witnesses shall be carried out in accordance with the provisions of the old 19th Century Dutch-based Code of Civil Procedure (the "RV").

Indonesia's rules of evidence are codified in Book VI of the RV, together with Articles 162–177 of the HIR (*Herziene Indonesisch Reglement*, procedural law for Java and Madura) or Articles 282–297 of the RBg (*Rechtsreglement Buitengewesten*, applying to procedures in the other islands). These provisions were intended to govern evidence in both court hearings and arbitral references, and Article 37 (3) of the new Arbitration Law makes it clear that they still relate to arbitrations, although normally an arbitral tribunal will have more flexibility in applying these than should the courts. A brief summary of the relevant provisions of these early laws follows:

- Articles 1866 of the RV and Article 164 of the HIR define evidence to comprise written evidence, testi-

mony of witnesses, inference, acknowledgements and oath.

- Articles 1865 of the RV and 163 of the HIR provide that a party arguing that he has a certain right or seeking to establish facts to strengthen such right, or deny the other party's right, must present evidence of the existence of such right or fact.
- Article 1867 of the RV distinguishes between authentic written evidence and non-notarial written evidence. Authentic written evidence is evidence made before a notary public and should be considered as perfect, or undeniable, evidence in respect of matters contained therein.
- Article 1878 provides that non-notarial evidence which is contested shall be examined by the Court.

It is implicit that the functions assigned to the court for litigation cases are to be exercised by the tribunal in arbitrations.

7.2 Are there limits on the scope of an arbitrator's authority to order the disclosure of documents and other disclosure or discovery (including third party disclosure)?

Discovery and disclosure of documents is not covered in Law No. 30/1999, nor was it in the prior legislation relating to arbitration. Discovery is not a common nor accepted procedure in Indonesia, nor in most civil law jurisdictions. And note that Article 1865 of the RV and 163 of the HIR, as referred to in § 7.1, above, imply that it is up to the party alleging a fact or theory to adduce the evidence to support its allegation. Thus although under most procedural rules the arbitrators may run the hearings as they deem appropriate and would therefore have full authority with respect to ordering disclosure or discovery, discovery is rarely ordered and there is no effective mechanism to enforce any such order. There have been no orders for discovery as yet tested in court.

As a general rule, if a party seeks to have disclosure of documents by the other party and the other party refuses to provide such documents, the arbitrators may draw whatever inference they deem appropriate from such failure.

7.3 Under what circumstances, if any, is a court able to intervene in matters of disclosure/discovery?

Officially, none

7.4 What is the general practice for disclosure/discovery in international arbitration proceedings?

None. See response to 7.2, above.

7.5 What, if any, laws, regulations or professional rules apply to the production of written and/or oral witness testimony? For example, must witnesses be sworn in before the tribunal? Is cross-examination allowed?

As mentioned above, Article 1867 of the RV distinguishes between authentic written evidence, which would include witness statements made before a notary public, and non-notarial written evidence. A statement made before notary public should be considered as perfect, or undeniable, evidence in respect of matters contained therein, but witnesses can still be cross-examined on any such matters.

There are no other specific laws or regulations, and the procedures will be determined by the tribunal. In practice witness statements are normally presented in advance to the tribunal and the other party or parties, and each witness will normally have the opportunity to provide a supplementary statement in response to that of the other party's witness statement. Then, subject to approval of the tribunal, the parties may cross examine the other's witnesses at a hearing.

8 Making an Award

8.1 What, if any, are the legal requirements of an arbitral award?

Article 54 (1) of Law No. 30/1999 provides:

“(1) An arbitration award must contain:

- a. A heading to the award containing the words “Demi Keadilan Berdasarkan Ketuhanan Yang Maha Esa (for the sake of Justice based on belief in the Almighty God);*
- b. The full name and addresses of the disputing parties;*
- c. A brief description of the matter in dispute;*
- d. The respective position of each of the parties;*
- e. The full names and addresses of the arbitrators;*
- f. The considerations and conclusions of the arbitrator or arbitration tribunal concerning the dispute as a whole;*
- g. The opinion of each arbitrator in the event that there is any difference of opinion within the arbitration tribunal;*
- h. The order of the award;*
- i. The place and date of the award; and*
- j. The signature(s) of the arbitrator or arbitration tribunal.”*

The award must be rendered within 30 days of the close of hearings. Awards must be registered in the court to be enforceable. There is no time limit for registration of foreign-rendered awards, but domestically rendered awards must be registered within 30 days of rendering to be enforceable.

9 Appeal of an Award

9.1 On what bases, if any, are parties entitled to appeal an arbitral award?

There is no appeal to an arbitration award. Although the court may not review the reasoning in an award, it may only execute a domestic award if both the nature of the dispute and the agreement to arbitrate meet the requirements of the Law and if the award is not in conflict with public morality and order. There is no recourse against rejection by the court of execution.

Rejection by the court of an application for enforcement of a foreign award may be appealed to the Supreme Court, whereas issuance of an order of enforcement (“*exequatur*”) is not subject to appeal. Nor may a decision of the Supreme Court either issuing or rejecting *exequatur* where the Government of Indonesia is a party be appealed.

Application may be made to annul either domestic or international awards, but on very limited grounds, primarily involving withholding of decisive documentation, forgery or fraud.

10 Enforcement of an Award

10.1 Has your country signed and/or ratified the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards? What is the relevant national legislation?

Indonesia is a signatory to the New York Convention, which was ratified by Presidential Decree No. 34 of 1981. The provisions detailing the procedures for enforcement of foreign awards thereunder were originally set out in Supreme Court Regulation No. 1 of 1990 and are now codified in Articles 66 and 67 of Law No. 30 of 1999, which provide:

“Article 66:

- a. International Arbitration Awards will only be recognised and may only be enforced within the jurisdiction of the Republic of Indonesia if they fulfil the following requirements:*
- b. The International Arbitration Award must have been rendered by an arbitrator or arbitration tribunal in a country which, together with the Republic of Indonesia, is a party to a bilateral or multilateral treaty on the recognition and enforcement of International Arbitration Awards.*
- c. International Arbitration Awards, as contemplated in item (a), above, are limited to awards which, under the provisions of Indonesian law, fall within the scope of commercial law.*
- d. International Arbitration Awards, as contemplated in item (a), above, may only be enforced in Indonesia if they do not violate public order.*
- e. An International Arbitration Award may be enforced in Indonesia only after obtaining an order of Exequatur from the Chief Judge of the District Court of Central Jakarta.*
- f. An International Arbitration Award, as contemplated in item (a), in which the Republic of Indonesia is one of the parties to the dispute, may only be enforced after obtaining an order of Exequatur from the Supreme Court of the Republic of Indonesia, which order is then delegated to the District Court of Central Jakarta for execution.*

“Article 67

(1) Application for enforcement of an International Arbitration Award shall be made after the award is submitted for registration to the Clerk of the District Court of Central Jakarta by the arbitrator(s) or the legal representative thereof.

(2) The submission of the file of the application for enforcement, as contemplated in paragraph (1) above, must be accompanied by:

- a. the original International Arbitration Award, or a copy authenticated in accordance with the provisions on authentication of foreign documents, together with an official translation of the text thereof into the Indonesian language;*
- b. the original agreement which is the basis for the International Arbitration Award, or a copy authenticated in accordance with the provisions on authentication of foreign documents, together with an official translation of the text thereof into the Indonesian language;*
- c. a certification from the diplomatic representative of the Republic of Indonesia in the country in which the International Arbitration Award was rendered stating that such country and the Republic of Indonesia are both bound by a bilateral or multilateral treaty on the recognition and implementation of International Arbitration Awards.”*

10.2 What is the approach of the national courts in your country towards the enforcement of arbitration awards in practice?

For the most part both domestic and international awards are enforced as a matter of course. There have been a few aberrant instances in which courts have declined to enforce, or have annulled, awards but most of these decisions have been reversed by the Supreme Court. There do remain two or three awards which were not able to be enforced, either for substantial defects or, unfortunately, as a result of improper influence on, and/or lack of understanding on the part of, the respective court.

11 Confidentiality

11.1 Are arbitral proceedings sited in your country confidential? What, if any, law governs confidentiality?

Article 27 of Law No. 30/1999 states only that: “*All hearings of arbitration disputes shall be closed to the public.*”

It is normal practice that arbitration proceedings are kept confidential, but there is no law so requiring over and above that the hearings themselves are closed, as above, nor any sanctions for violation of such confidentiality. The duty to maintain confidentiality has been abused in a few recent cases, in particular one case where the foreign claimant made a media circus of the entire reference, much to their own advantage.

11.2 Can information disclosed in arbitral proceedings be referred to and/or relied on in subsequent proceedings?

As a civil law jurisdiction, there is no necessity to follow precedent even of Supreme Court cases. Thus it is neither appropriate nor likely to be helpful for information disclosed in one arbitral proceeding to be referred to in another. However, unless the parties have agreed otherwise, there is nothing to prevent a party from disclosing whatever they please in any forum they may wish.

11.3 In what circumstances, if any, are proceedings not protected by confidentiality?

If the parties agree to waive confidentiality. The proceedings themselves are closed to the public. But unless the parties agree on a higher standard of confidentiality, that is as far as the law regulates.

12 Damages/interests/costs

12.1 Are there limits on the types of damages that are available in arbitration (E.g., punitive damages)?

Indonesia does not recognise punitive damages.

12.2 What, if any, interest is available?

Interest can be awarded in accordance with an underlying contract. Otherwise interest may, at the discretion of the tribunal, be awarded at the statutory rate, currently 6%

per annum. Note that interest has recently been declared “haram” by the Islamic community, and thus courts may be reticent to award interest where none has been specifically agreed upon by the parties.

12.3 Are parties entitled to recover fees and/or costs and, if so, on what basis? What is the general practice with regard to shifting fees and costs between the parties?

Article 77 of Law No. 30/99 states:

“(1) *The arbitration fees shall be charged to the losing party.*

(2) *In the event that a claim is only partially granted, the arbitration fees shall be charged to the parties equally.*”

As a general rule legal fees are not recoverable, unless the parties have specifically so agreed in their underlying contract or in a separate agreement relating to the arbitration.

12.4 Is an award subject to tax? If so, in what circumstances and on what basis?

An award, as such, is not subject to tax, nor to any withholding thereof. However, funds received in payment of an award become ordinary income to the recipient and must be reported as such; whereas costs and losses can be expensed in the normal way.

13 General

13.1 Are there noteworthy trends in the use of arbitration or arbitration institutions in your country? Are certain disputes commonly being referred to arbitration?

Probably the majority of arbitrations heard within Indonesia are heard before the local institution, *Badan Arbitrase Nasional Indonesia* (“BANI”). A number of ICC and *ad hoc* arbitrations are also held here, and arbitrations relating to Indonesia are held in Singapore and elsewhere. Construction disputes and quite a number of insurance disputes tend to go to arbitration, whereas banking disputes normally do not.

13.2 Are there any other noteworthy current issues affecting the use of arbitration in your country?

There have been two very high-profile arbitrations relating to private power projects which were suspended by the government at the insistence of the IMF after the onset of the economic crisis of 1997-1998. One set of these were domestic arbitrations, one of which was nonetheless moved offshore without mutual consent of the parties. There has been considerable fallout from that, although no attempt was made to enforce the awards, patently invalid under Indonesia’s Arbitration Law. Even more fallout is currently being experienced over the other case, held in Geneva, in which no attempt was made to enforce the award within Indonesia, but rather assets of the Indonesian parties and of the government, which was not a party, are currently being chased in other jurisdictions, despite the award having been annulled by the Indonesian courts.

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Karen Mills has practiced in Indonesia for over 20 years and is one of the founders of the KarimSyah (formerly Karim Sani) law firm in Jakarta. Ms. Mills is a Chartered Arbitrator and Fellow of the Chartered Institute of Arbitrators and of the Singapore and Hong Kong Institutes, serves as special advisor to the Board of Indonesia's arbitral institution, BANI, for which she drafted the new procedural rules, and is on the panel of arbitrators of a number of other institutions.

A graduate of New York University School of Law and member of the New York bar, Ms. Mills commenced her legal career with Haight, Gardner, Poor and Havens in New York, specialising in financing. Today she often sits as arbitrator or mediator and also specialises in financing transactions and restructurings, Oil & Gas and Energy matters, information technology and general investment and other cross-border transactions. She teaches and writes extensively on arbitration and other Indonesian legal matters, having published over 60 papers in various books and international professional journals.

Ms. Mills founded and chaired the Professional Services Committee and Co-Chaired the Tax Committee of the American Chamber of Commerce in Indonesia for many years, served two terms as Vice Chair of the Indonesian branch of the International Fiscal Association, and is a member of several committees of the International Bar Association, and of the Inter-Pacific Bar Association and the New York State Bar Association.



Formerly known as Karim Sani, KarimSyah is recognised as one of the most trusted and respected law firms in Indonesia. The firm's practice consists of almost all aspects of commercial legal matters, both contentious and transactional. KarimSyah is one of very few firms in Indonesia with both litigation and transactional divisions, although the two work hand-in-hand so as to provide a full spectrum of experience, advice and assistance to clients of all nationalities and business sectors.

KarimSyah is internationally recognised as Indonesia's market leader in dispute resolution. Besides handling many arbitrations and litigations, both domestic and cross-border, KarimSyah is also a strong advocate of amicable party-driven resolution, such as mediation and other forms of ADR, mediating and negotiating amicable settlements on a regular basis.

The major substantive strengths of the firm include all aspects of banking and financial transactions, including capital market, mergers & acquisitions, project finance, debt restructuring and bankruptcy. KarimSyah is one of the primary Indonesian firms relied upon by the Indonesian Bank Restructuring Agency for public debt restructure and asset disposal, and also represents many international, joint-venture and local banks in all aspects of financial transactional as well as debt recovery matters.

KarimSyah is also active in oil, gas, energy and mining matters, with a large number of clients in these fields, as well as in all nature of general trade, industry, telecommunications, Information Technology and Intellectual Property Rights.